IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

Bail Appl..No. 4579 of 2007()

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CRIME NO.267/07 OF TALIPARAMBA POLICE STATION

PETITIONER: 5TH ACCUSED:

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P.C.NASEER, S/O.B.ABDULLA, AGED 27,
PALLACKAN CHEKKALI, MUKKOLA, TALIPARAMBA.

BY ADV. SRI.BLAZE K.JOSE

RESPONDENTS: COMPLAINANT:

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STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM ,
REPRESENTING SUB INSPECTOR OF POLICE,
TALIPARAMBA.

BY P.P. SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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**B.A. NO. 4579 OF 2007**

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Dated this the 27th day of July, 2007

**ORDER**

Application for anticipatory bail. The petitioner is the 5th accused in a crime registered, inter alia, under Secs.436 and 427 of the IPC. The crux of the allegations is that on account of political animosity, the shop of the de facto complainant was set fire to. The incident in this case is one of the series of incidents which took place between the activists belonging to rival political groups. The alleged incident took place on 28/4/07 at about 2.30 a.m. An F.I.R. was registered at 1.15 p.m. on the same day. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The petitioner happened to be an activist of one political group and that is why the allegations are falsely raised against him by the members

belonging to the rival group. The petitioner may, in these circumstances, be granted anticipatory bail, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the petitioner has been named in the F.I.R. Investigation reveals convincingly the complicity of the petitioner. Wanton violence has been resorted to on account of political animosity. In these circumstances, there are no features in this case which would justify the invocation of the extraordinary jurisdiction under Sec.438 of the Cr.P.C., submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I find force in the opposition by the learned Public Prosecutor. This, I am satisfied, is a fit case where the petitioner must appear before the Investigating Officer or the learned Magistrate having jurisdiction and then seek bail in the ordinary course. I find no justification to invoke the discretion under Sec.438 of the Cr.P.C.

5. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the

learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

**(R. BASANT, JUDGE)**

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P.S. to Judge